

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9909 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MIYANA NOORALI AIYUB

Versus

DISTRICT MAGISTRATE

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Appearance:

MR ANIL S DAVE for Petitioner

MR UA TRIVEDI, AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 19/12/96

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the impugned order of detention passed by the respondent.

2. It appears from the grounds of detention that the detinue is a bootlegger as well as dangerous person. Nine cases have been registered against him under the Bombay Prohibition Act, three in the year 1994, three in

the year 1995 and three in the year 1996. So far as the offence under IPC is concerned, the same is under section-323. The Advisory Board has also not taken into consideration the said case.

3. It is well settled that, merely because a person is a bootlegger, he cannot be preventively detained under the provisions of the Gujarat Prevention of the Anti Social Activities Act, 1985, unless as laid down in sub-section (4) of section 3 of the Act that the activities of a person as a bootlegger affect adversely or are likely to affect the maintenance of public order.

4. No reply to the petition has been filed. However, the application has been opposed by the learned AGP.

5. I have perused the material on record with the assistance of the learned counsel. There is no material to indicate that the activities of the petitioner as a bootlegger have in any way affected adversely or are likely to affect adversely the maintenance of public order. Thus, the detention of the petitioner is illegal and the same is not sustainable.

6. In the result, this Special Civil Application is allowed. The impugned order of detention being illegal is quashed and set aside. The petitioner shall be released forthwith, if he is not required in any other case. Rule is made absolute accordingly.

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